HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

Single Bench: - Hon'ble Shri S.R. NAYAK, CJ

WRIT PETITION NO. 5784 OF 2006

PETITIONER Onkar Prasad, S/o Ram Prasad,
Aged about 55 years, R/o Vill. Mohla,
Tah. Mohla, Dist. Rajnandgaon, (C.G.)

Versus

RESPONDENTS

1. Reva Ram, S/o Dhani Ram
R/o Kishan Puri, P.O. Parsauda,
Tah. Charama, Dist. Kanker (C.G.)
2. Upper Collector,
Rajnandgaon, (C.G.)
3. Board of Revenue,
Raipur (C.G.)
4. Sub Divisional Officer,
Dongargarh, Distt. Rajnandgaon
(C.G.)

Present:

Mr. Parag Kotecha, learned counsel for the petitioner.

O R D E R
(Passed on 29th November 2005)

This writ petition is directed against the order dated 29/07/2003 passed by the Additional Collector, Rajnandgaon in Review Case No.122-A-23(b)/1998-99 as affirmed by the Board of Revenue, Raipur vide its order dated 12/09/2005 in Revision Case No.425/A-23(b)/2002-03.

(2) The facts of the case in brief are as follows:

The disputed land situated at village Salhejalhal, Patwari Halka No.33, Tahsil Mohla was registered in favour of Dhani Ram, father of respondent No.1 Reva Ram. The concerned Patwari had submitted a report to the

SDO that the petitioner is in possession of the disputed land and on this the SDO registered Revenue Case No.430/A-23(b)/87-88 and vide order dated 14/12/1988 directed that the land be reverted to Dhani Ram. Being aggrieved by the said order, the petitioner herein preferred an appeal before the Addl. Collector, Rajnandgaon and vide order dated 28/10/1996 the Addl. Collector, Rajnandgaon remitted the case to the SDO to conduct enquiry on two points namely whether the vendor has received the consideration or not and how much land has been purchased by the vendor. The Sub Divisional Officer (Revenue), Dongargarh after hearing both the parties vide order dated 19/04/1999 rejected the application of respondent No.1. Against the order passed by the Sub Divisional Officer, Reva Ram/respondent No.1 preferred revision before the Addl. Collector, Rajnandgaon who by his order dated 29/07/2003 set aside the order of the Sub Divisional Officer by allowing the revision. Against that order, the petitioner preferred a revision to the Board of Revenue and the same has been dismissed by the Board of Revenue by its order dated 12/09/2005.

(3) The only contention raised before me by the learned counsel for the petitioner is that the permission accorded by the Collector, Rajnandgaon as for as back in the year 1975 to purchase the subject land from Dhani Ram, father of the first respondent, could not have been cancelled suo-motu after a lapse of 25 years. The facts laid before the Court would prima-facie create a serious doubt whether during the life time of Dhani Ram, the subject property was actually sold to the petitioner under a registered document. That is exactly the circumstance which weighed with the Board of Revenue to pass the impugned order dated 12-9-2005 directing the District Collector, Rajnandgaon to re-examine the materials on record and find-out whether the subject land was actually

alienated by Dhani Ram during his life time in favour of the petitioner and the consideration was actually paid to deceased Dhani Ram. The issue brought before the Court arises out of a social welfare legislation intended to uplift the tribals in the State. Therefore, mere gap of time in initiating suo-motu proceedings by the statutory authorities could not be a valid ground for this Court under Article 227 of the Constitution of India to upset the discretion exercised by the Board of Revenue to do justice to the parties concerned. Be that as it may, since the matter has been remitted to the District Collector to re-examine the merits of the matter, it is open for the petitioner to put-fourth his case before the District Collector for consideration. Above all, the resolution of the dispute between the parties requires ascertainment of relevant facts. Looking from that angle also, it is not a fit case where this Court should undertake the resolution of disputed facts. In the result, I dismiss the Writ Petition. However, it is made clear that this Court should not be understood to have expressed any opinion on contentious issues brought before the Court and it is for the District Collector to inquire into the claims and pass appropriate orders on the basis of facts to be found by him after the inquiry. There is no order as to costs.

Sd/-
Chief Justice

Brajesh